

**MODIFY THE DRAFT EIS/EIR
TO FULLY DISCLOSE IMPACTS TO AGRICULTURE ASSOCIATED WITH
THE CALFED PROGRAM, ANALYZE COMMON PROGRAM
ALTERNATIVES, AND FULLY DESCRIBE MITIGATION MEASURES**

July 17, 1998

Issue Paper: ~~Agricultural Impacts—Treatment in the PEIS/R~~

Statement of Issue

Should CALFED modify the draft EIS/EIR to fully disclose impacts to agriculture associated with the CALFED Program, analyze common program alternatives, and fully describe mitigation measures to assure full disclosure of potential actions and impacts, certification, and legal sufficiency?

Action:

Background:

The CALFED Program ~~was planned under an initial assumption that adverse impacts of programmatic actions on the agricultural environment would result in socio-economic impacts only. Only during the latter stages of drafting the main draft PEIS/R~~ included an evaluation of the were environmental impacts on the existing environment related to agricultural land and water supplies ~~evaluated and included~~. However, the current draft document repeatedly states that these impacts are significant and unavoidable.

It is the position of CDFA that significant impacts to elements of the existing environment related to agriculture have not been fully identified in the PEIS/R. The document lacks an appropriate description of the elements of the existing environment related to agriculture. There is not a full discussion of potential measures to avoid, reduce and/or mitigate impacts of CALFED actions on the existing environment. There is not a sufficient analysis of range of alternatives for the Common Programs. If these issues are not addressed in the final PEIS/R, the document could be vulnerable to a legal challenge, seriously jeopardizing further CALFED progress. It is the objective of CDFA to assure that to the extent possible, a "bullet proof" PEIS/R is prepared.

The CALFED Program includes six Common Programs, four of which were identified early in phase I. CALFED envisioned that these Common Programs would not vary appreciably among the storage and conveyance alternatives. Also, each Common Program would be fully implemented under an adaptive management strategy that would modify program implementation based on increased scientific understanding, and results of actions implemented, as documented by a comprehensive monitoring and research

program. It is the current CALFED position that a range of actions is embodied in each of the Common Programs as implemented through adaptive management. The impacts described in the draft EIS/EIR are maximum impacts, and should be reduced through the adaptive management approach. Furthermore, there is a question as to whether conversion of agricultural resources to wildlife habitat requires mitigation under CEQA. Some state that habitat is a less intensive land use and thus mitigation is not necessary. Thus, it is the current CALFED position that the current draft PEIS/R should be adequate under CEQA.

If the PEIS/R is to be able to fully inform the public and decision makers, be certifiable, and be able to withstand any legal challenge, then the document must provide: an adequate description of the existing environment; an adequate range of alternatives for the Common Programs; full disclosure of impacts; and appropriate mitigation measures. The issue before CALFED is whether or not the PEIS/R will meet these requirements given the current approach and level of effort. While this issue paper focuses on agricultural resources impacts, the issue is relevant to other elements of the affected environment.

Others state that many of the same land, water, and vegetation management practices that are used to maintain habitat are of the same or even greater intensity than those used for agriculture. In any event, conversion from agriculture to habitat is still a change in the existing environment under CEQA.

Concerns. We have identified four concerns regarding the potential decision to extensively modify the Draft EIS/EIR to fully disclose impacts on agriculture, analyze alternatives to the Common Programs, and fully disclose mitigation measures:

- 1. Insufficient staff are available to make extensive modifications to the DEIS/EIR. The changes proposed would be time consuming and perhaps beyond the ability of available staff to complete in a timely manner. The issue of cost and timeliness may not be relevant if the document is successfully challenged after its release.**
- 2. Land use changes are likely to become another issue that precludes the successful restoration of the Bay-Delta and increasing the profile of those impacts above that required by CEQA could exacerbate the issue: The issue of including a much more extensive discussion of impacts to agriculture is highly politicized. Some believe that the issue of changes in agricultural land uses will become as big an issue as the stigma associated with the old peripheral canal. There may be no need to highlight the issue further with a more detailed impact analysis.**
- 3. The DEIS/EIR may have inadequately dealt with mitigation since it concluded that significant impacts were unavoidable: Unavoidable significant impacts associated with the Program must be addressed with a Statement of Overriding**

Consideration, however, all reasonable and practicle mitigation measures must also be implemented. The current draft does not make that clear enough.

4. Revisiting the decision to include common programs that would be implemented at the same level of intensity regardless of the Storage and Conveyance Alternative chosen as the preferred alternative could dismantle the support that the CALFED has slowly gained over the last two years. Evaluating variations of the common programs would unravel much of the support gained from the environmental community and fish and wildlife agencies. This approach is not a requirement of CEQA. For instance, if an EIR is prepared for a subdivision a lead agency must assess alternatives to the project such as the number of units or the location. CEQA does not require an analysis of alternatives to the width of the roads, size of the yards, or orientation of the houses. Revisiting this decision would be time consuming and perhaps beyond the ability of available staff to complete in a timely manner. The number of variations would be significant if alternatives for each common program were involved.

Options for Resolving Issue

Option 1: Maintain the current approach; presume that the current level of alternatives analysis, disclosure of impacts, and discussion of mitigation is adequate.

Pros

- Ensures the CALFED Program stays on track to meet its deadline for releasing the revised Draft EIS/EIR.
- Avoids derailing the CALFED effort by adding another highly political issue.
- Avoids the need to do a significant impact analysis that is currently not found in the programmatic EIS/EIR and could not be completed in time to keep the program on schedule for release of a final document.

Cons

- Risks alienating the agricultural stakeholders.
- Draft EIS/EIR may be legally deficient as currently drafted.

Option 2: Provide additional documentation in the Draft PEIS/R including a full description of the existing environment, a range of alternatives for the Common Programs, full disclosure of impacts, and appropriate mitigation measures for impacts that cannot be avoided or reduced to

a level of insignificance for the Program as it is currently proposed. These mitigation measures would be implemented either, prior to program implementation, or in stages, linked to implementation of program elements under the adaptive management approach.

Pros

- 1 Fosters support from agricultural stakeholders
- 1 Ensures that the EIS/EIR will be an adequate CEQA document

Cons

- 1 Costly
- 1 Time consuming
- 1 May not be required to address CEQA
- 1 Highlights a controversial subject perhaps unnecessarily
- 1 May unravel Program support from key environmental stakeholder groups

Option 3: Form a agency/agricultural stakeholder group, perhaps through BDAC to address concerns without the need for extensive changes to the DEIS/EIR.

Pros

- 1 Fosters support from agricultural stakeholders
- 1 Engages key agricultural stakeholders to more efficiently determine mitigation measures

Cons

- 1 Time consuming
- 1 Results may not pay off in time to meet the Program's schedule
- 1 Will require significant staff effort to work with agricultural stakeholders and CDFA to make the needed changes to revise the Draft EIS/EIR

Option 4: Provide some additional documentation in the Draft PEIS/R describing impacts on agriculture due to implementation of the Program. Include appropriate mitigation measures for impacts that cannot be avoided or reduced to a level of insignificance and explain that they will be implemented whether there is a Statement of Overriding Consideration of not.

Pros

- Could foster some support from agricultural stakeholders
- Ensures that the EIS/EIR will be an adequate CEQA document
- Could be completed within the established timeline

Cons

- May still have significant opposition from agricultural stakeholders

Option 5: Combined with options 3 and 4, and select a Delta conveyance alternative that minimizes the import of ocean derived salts to the San Joaquin Valley and the import of recirculated salts from agricultural drainage in the Delta and the San Joaquin Valley.

Pros

- Meets the requirements of CEQA
- May foster some agricultural stakeholder support
- Likely to provide the most durable solution to the conflicts with agriculture
- Engages key agricultural stakeholders to more efficiently determine mitigation measures
- Could be completed within the established time line

Cons

- Risks alienating some agricultural stakeholders

Costs likely to remain significant

Will require significant staff effort to work with agricultural stakeholders and QDFA to make the needed changes to revise the Draft EIS/EIR

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